

LEGAL GUARDIAN OF RUDOLPH TREIBER, JR., A MINOR

MAY 25, 1942.—Ordered to be printed

Mr. CAPPER, from the Committee on Claims, submitted the following

REPORT

[To accompany H. R. 5910]

The Committee on Claims, to whom was referred the bill (H. R. 5910) for the relief of the legal guardian of Rudolph Treiber, Jr., a minor, having considered the same, report favorably thereon with the recommendation that the bill do pass without amendment.

The facts are fully set forth in House Report No. 1949, Seventy-seventh Congress, second session, which is appended hereto and made a part of this report.

[H. Rept. No. 1949, 77th Cong., 2d sess.]

The Committee on Claims, to whom was referred the bill (H. R. 5910) for the relief of the legal guardian of Rudolph Treiber, Jr., a minor, having considered the same, report favorably thereon with amendments and recommend that the bill, as amended, do pass.

The amendments are as follows:

Line 5, strike out "Rudolph and Emma Treiber" and insert in lieu thereof "the legal guardian of Rudolph Treiber, Junior, a minor,".

Line 8, strike out the language "by Rudolph Treiber, Junior, minor son of Rudolph and Emma Treiber,".

Amend the title so as to read: "A bill for the relief of the legal guardian of Rudolph Treiber, Junior, a minor."

The purpose of the proposed legislation is to pay to the legal guardian of Rudolph Treiber, Jr., a minor, the sum of \$500 for personal injuries sustained on July 5, 1940, near Bay City, Mich., when an Army truck from Selfridge Field, Mich., collided with the wagon on which he was riding.

On July 5, 1940, Rudolph Treiber was driving a horse-drawn hay wagon, on which his son Rudolph, Jr., was a passenger, to Bay City, Mich., on the proper side of State Highway No. M-15. That Army truck was traveling in the same direction, and when it attempted to pass the hay wagon the right front wheel of the Government vehicle struck the left rear of the wagon, causing Rudolph, Jr., to be hurled to the ground, breaking his arm and causing other painful injuries.

Dr. Neal Moore, who attended Rudolph Treiber, Jr., found upon examination that he has sustained brain concussion, fracture of the left wrist (radius), and multiple contusions. That the boy was totally disabled for 6 weeks and partially disabled for 2.

The War Department recommends the enactment of the legislation in whatever amount the Congress in its discretion may deem proper to allow.

WAR DEPARTMENT,
Washington, November 22, 1941.

HON. DAN R. McGEHEE,
Chairman, Committee on Claims, House of Representatives,
Washington, D. C.

DEAR MR. McGEHEE: The War Department will interpose no objection to the enactment of H. R. 5910, Seventy-seventh Congress, which will pay to Rudolph and Emma Treiber the sum of \$500 for personal injuries and medical expenses sustained by their minor son, Rudolph Treiber, Jr., on July 5, 1940, near Bay City, Mich., when an Army truck from Selfridge Field, Mich., collided with the wagon on which he was riding.

On July 5, 1940, Rudolph Treiber was driving a horsedrawn hay wagon, on which his son was a passenger, to Bay City, Mich., on the proper side of State Highway No. M-15, at a speed of approximately 5 miles per hour. The Government vehicle, on official business, was proceeding in the same direction, and when it attempted to pass the hay wagon the right front wheel of the Government vehicle struck the left rear of the wagon. The impact caused Rudolph Treiber, Jr., who was seated on the load of hay, to be hurled to the ground, breaking an arm and causing other painful injury, which necessitated considerable medical treatment and expense. The driver of the Government vehicle stated that he was tired and sleepy, having been on duty and working constantly for about 12 hours, at the time of the accident, and that at the moment he attempted to pass the wagon he believes he fell asleep or dozed.

A claim was filed with the War Department by Mr. Rudolph Treiber in the amount of \$487.76 for property damages and personal injury of his son. The claim for property damage was approved in the amount of \$260.76, it being the view of the War Department that the proximate cause of the accident was negligence on the part of the Government driver in that he permitted himself to fall asleep, thus failing to maintain such proper control of his vehicle as to avoid striking claimant's wagon, and that the claim for property damage was properly for approval under the provisions of the act of December 28, 1922 (42 Stat. 1066). The claim for personal injuries and medical expenses was necessarily disapproved for the reason that there is no provision of law or appropriation available to the War Department for the settlement of claims for personal injuries.

It appears from the above that Rudolph Treiber, Jr., minor son of claimant, has suffered damages and injuries for which he has not been compensated, and as a result of the negligence of the driver of the Government vehicle acting within the scope of his employment, and while the War Department is not prepared to pass upon the amount that should be allowed under the circumstances, it will interpose no objection to the enactment of legislation to compensate him for the damages and injuries sustained by Rudolph Treiber, Jr., by reason of this unfortunate happening, in such amount as the Congress may deem proper to allow.

Sincerely yours,

HENRY L. STIMSON, *Secretary of War.*

STATE OF MICHIGAN,
County of Bay, ss:

John Wawozyniak, being duly sworn, deposes and says that he is a member of the sheriff's department for the county of Bay and State of Michigan; that on the 5th day of July 1940, he was called to the scene of an accident on M-15, and, arriving at the accident, found Rudolph Treiber, Jr., of Route No. 1, Munger, Mich., to have been badly injured and that he took the said Rudolph Treiber, Jr., to Mercy Hospital at Bay City, Mich.; that members of his department shot the horse, which had been injured in the accident, and took a statement from the driver of the United States Army truck involved in the accident and that the said driver stated that he had fallen asleep while driving the truck, and for this reason had driven into the rear of said team of horses and wagon on which Rudolph Treiber, Jr., was a passenger; that attached hereto is a copy of the accident report taken by his department in reference to said accident.

JOHN WAWOZYNIAC.

Subscribed and sworn to before me, a notary public, in and for said county, this 5th day of November 1941.

[SEAL]

LEOLA M. KAVANAGH,
Notary Public, Bay County, Mich.

My commission expires August 25, 1944.

STATE OF MICHIGAN,
County of Bay, ss:

John W. Miller, being duly sworn, deposes and says that he is a member of the sheriff's department for the county of Bay and State of Michigan; that on the 5th day of July 1940 he was called to the scene of an accident on M-15 and, arriving at the accident, found Rudolph Treiber, Jr., of Route No. 1, Munger, Mich., to have been badly injured and that he took the said Rudolph Treiber, Jr., to Mercy Hospital at Bay City, Mich.; that members of his department shot the horse, which had been injured in the accident, and took a statement from the driver of the United States Army truck involved in the accident and that the said driver stated that he had fallen asleep while driving the truck and for this reason had driven into the rear of said team of horses and wagon on which Rudolph Treiber, Jr., was a passenger; that attached hereto is a copy of the accident report taken by his department in reference to said accident.

JOHN W. MILLER.

Subscribed and sworn to before me, a notary public, in and for said county, this 5th day of November 1941.

[SEAL]

LEOLA M. KAVANAGH,
Notary Public, Bay County, Mich.

My commission expires August 25, 1944.

STATE OF MICHIGAN,
County of Bay, ss:

Miss Madeline Treiber, being duly sworn, deposes and says that she resides at Munger, Mich., and that she was a witness to an accident which occurred on M-15 in the State of Michigan on the 5th day of July 1940, at around 6 p. m. on said date.

That a United States Army truck going north on said M-15, hit a wagon loaded with hay being drawn by a team of horses which had been traveling north on said highway on the easterly lane.

That as a result of said collision, deponent knows that Rudolph Treiber, Jr., of Route No. 1, Munger, Mich., who was seated on the rear end of said wagon, was severely injured.

And further, that as a result of said accident, one of the horses had its leg broken, the wagon was smashed, and the load completely upset.

MADELINE TREIBER.

Subscribed and sworn to before me, a notary public in and for said county, this 7th day of November A. D. 1941.

[SEAL]

EVA ROGERS,
Notary Public, Bay County, Mich.

My commission expires September 23, 1944.

STATE OF MICHIGAN,
County of Bay, ss:

Neal Moore, being duly sworn, deposes and says that he is a regularly licensed and practicing physician in the city of Bay City, Bay County, Mich., and that he was practicing as such on the 5th day of July 1940.

That he was called, in his professional capacity, to take care of Rudolph Treiber, Jr., of Route No. 1, Munger, Mich.

That the nature and extent of the injury is as follows: (1) Brain concussion, (2) fracture of left wrist (radius), (3) multiple contusions.

That the said Rudolph Treiber, Jr., is of the age of 15 years and the degree of disability is as follows: Total disability for 6 weeks from the date of the injury and partial disability for an additional 2 weeks.

NEAL MOORE, M. D.

Subscribed and sworn to before me, a notary public in and for said county, this 7th day of November A. D. 1941.

[SEAL]

EVA ROGERS,
Notary Public, Bay County, Mich.

My commission expires September 23, 1944.

BAY CITY, MICH., *March 17, 1942.*

STATEMENT OF RUDOLPH TREIBER, MUNGER, MICH., RURAL FREE DELIVERY

In account with NEAL R. MOORE, M. D.:

To professional services from July 5, 1940, to July 13, 1940-----	\$40
To treat Rudolph Treiber, Jr., for fracture of the left wrist and concussion of the brain, Bay City, Mich., Mar. 17, 1942-----	40

I certify that the above is a true account of services rendered in this case and that no payment has been made on it.

NEAL R. MOORE, M. D.

Subscribed and sworn to before me this 17th day of March 1942.

[SEAL]

JOSEPH J. FAVAZZA,
Notary Public, Bay County, Mich.

My commission expires September 14, 1945.

